

11th Circuit Docket Number: 21-12107

		Attorney Name	Mailing Address	Telephone, Fax, Email
For Appellant:		J. Robert Persons	200 Westpark Drive	P: 770-486-8445
<input checked="" type="checkbox"/> Plaintiff		W. Thomas Lacy, Jr.	Suite 280	F: 770-486-8889
<input type="checkbox"/> Defendant			Peachtree City, GA	
<input type="checkbox"/> Other (Specify)			30269	
For Appellee:		Anthony W. Morris	999 Peachtree St., NE	P: 404-733-9809
<input type="checkbox"/> Plaintiff			Suite 1700	F: 404-733-9909
<input checked="" type="checkbox"/> Defendant			Atlanta, GA 30309	
<input type="checkbox"/> Other (Specify)				

Jurisdiction	Nature of Judgment	Type of Order	Relief
<input type="checkbox"/> Federal Question <input checked="" type="checkbox"/> Diversity <input type="checkbox"/> US Plaintiff <input type="checkbox"/> US Defendant	<input checked="" type="checkbox"/> Final Judgment, 28 USC 1291 <input type="checkbox"/> Interlocutory Order, 28 USC 1292(a)(1) <input type="checkbox"/> Interlocutory Order Certified, 28 USC 1292(b) <input type="checkbox"/> Interlocutory Order, Qualified Immunity <input type="checkbox"/> Final Agency Action (Review) <input type="checkbox"/> 54(b)	<input checked="" type="checkbox"/> Dismissal/Jurisdiction <input type="checkbox"/> Default Judgment <input type="checkbox"/> Summary Judgment <input type="checkbox"/> Judgment/Bench Trial <input type="checkbox"/> Judgment/Jury Verdict <input type="checkbox"/> Judgment/Directed Verdict/NOV <input type="checkbox"/> Injunction <input type="checkbox"/> Other _____	Amount Sought by Plaintiff: \$ _____ Amount Sought by Defendant: \$ _____ Awarded: \$ _____ to _____ Injunctions: <input type="checkbox"/> TRO <input type="checkbox"/> Preliminary <input type="checkbox"/> Permanent <input type="checkbox"/> Granted <input type="checkbox"/> Denied

Based on your present knowledge:

- (1) Does this appeal involve a question of First Impression? ☒ Yes ☐ No  
 What is the issue you claim is one of First Impression? Can a virus cause property damage as defined in Zurich's insurance policy?
- (2) Will the determination of this appeal turn on the interpretation or application of a particular case or statute? ☒ Yes ☐ No  
 If Yes, provide  
 (a) Case Name/Statute AFLAC, Inc. v. Chubb & Sons, Inc., et al.  
 (b) Citation AFLAC, Inc. v. Chubb & Sons, Inc., 581 S.E.2d 306, 308 (Ga. Ct. App. 2003)  
 (c) Docket Number if unreported \_\_\_\_\_
- (3) Is there any case now pending or about to be brought before this court or any other court or administrative agency that  
 (a) Arises from substantially the same case or controversy as this appeal? ☐ Yes ☒ No  
 (b) Involves an issue that is substantially the same, similar, or related to an issue in this appeal? ☒ Yes ☐ No  
 If Yes, provide  
 (a) Case Name Henry's Louisiana Grill, Inc., et al. v. Allied Insurance Company of America  
 (b) Citation \_\_\_\_\_  
 (c) Docket Number if unreported 20-14156-BB  
 (d) Court or Agency United States Court of Appeals- 11th Circuit
- (4) Will this appeal involve a conflict of law  
 (a) Within the Eleventh Circuit? ☐ Yes ☒ No  
 (b) Among circuits? ☐ Yes ☒ No

If Yes, explain briefly:

- (5) Issues proposed to be raised on appeal, including jurisdictional challenges:

- (1) Did the trial court improperly apply the Iqbay/Twoombly standard in dismissing Plaintiff's Complaint  
 (2) Can the Covid 19 virus cause "direct physical loss of or damage" to the insured's premises and property [undefined terms in the Zurich policy] so as to state a claim for business income losses under that portion of the Zurich policy.  
 (3) Is the policy's coverage for microorganism caused losses as provided in the business income loss portion of the policy illusory in violation of Georgia law  
 (4) Should the questions framed for referral to the Supreme Court of Georgia as set out in Plaintiffs' Motion for Reconsideration be referred to the Georgia Supreme Court where the insurance coverage issues stemming from the pandemic are not answered by prior decisions, and are of paramount importance to these plaintiffs and the restaurant/hospitality industry in Georgia which have sustained crippling business income losses due to the pandemic.

I CERTIFY THAT I SERVED THIS CIVIL APPEAL STATEMENT ON THE CLERK OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND

SERVED A COPY ON EACH PARTY OR THEIR COUNSEL OF RECORD, THIS 9th DAY OF July, 2021.

Jo, Robert Persons

NAME OF COUNSEL (Print)

/s/ Jo, Robert Persons

SIGNATURE OF COUNSEL